

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF WASHINGTON

WESTGATE COMM., LLC, d/b/a
WEAVTEL,

NO. CV-06-0062-EFS

Plaintiff,

V.

CONSENT ORDER AND JUDGMENT

U.S. NATIONAL PARK SERVICE,
et al.

Defendants.

15 The parties, Westgate Communications, d/b/a Weavtel, Plaintiff, and
16 the United States of America and the National Park Service (NPS), et al.,
17 Defendants, wish to settle all issues arising out of the allegations of
18 this case involving the issuance of a Permit to Plaintiff for certain
19 activities on lands administered by Defendant, and hereby agree to the
20 entry of this Consent Order as indicated by the signatures below. This
21 Consent Order constitutes a full and final resolution of the claims set
22 forth in the Complaint and any and all claims that could be brought by
23 Plaintiff to install, maintain and operate telecommunication services in
24 and on lands owned by the United States of America and managed by the
25 National Park Service in the Stehekin Valley within Lake Chelan National
26 Recreation Area.

1 Therefore, it is hereby Ordered, Adjudged and Decreed as follows:

2 1. Defendants United States of America and the National Park
3 Service shall issue a Finding of No-Significant Impact (FONSI) for the
4 installation, maintenance and operation of a public telecommunications
5 system on NPS managed lands and facilities in the Lake Chelan National
6 Recreation Area. This FONSI is based on the proposed activities already
7 reviewed by NPS as required by NEPA. Additionally, Defendants will issue
8 a Special Use Permit to Plaintiff to install, maintain and operate a
9 wireless telecommunications system. Should the wireless system be
10 determined ineffective for its designed purpose, the NPS agrees to issue
11 a Special Use Permit to allow the burying of fiber optic cable on lands
12 administered by NPS as necessary to establish reliable telecommunications
13 where wireless telecommunications are not feasible, but in no event will
14 permission be given beyond that set forth in the Environmental Assessment
15 issued by the National Park Service in June, 2007.

16 2. Plaintiff shall pay to Defendants the costs incurred by
17 Defendants in preparing both the initial Environmental Assessment and the
18 Environmental Assessment prepared in June, 2007. The balance remaining
19 due on the first Environmental Assessment is \$6,876.58. The cost
20 incurred for preparation of the second Environmental Assessment is \$3,
21 682.00.

22 3. This Consent Order constitutes a judgment against Plaintiff in
23 the amount of \$10,558.58.

24 4. A copy of this Order shall be provided to the USDA Rural
25 Utilities Service (RUS). Plaintiff shall provide written authority to
26 the RUS to direct \$10,558.58 of loan monies, otherwise payable to

1 Plaintiff, to the National Park Service to satisfy the judgment set forth
2 above. If otherwise legally permitted to do so, at the time loan
3 proceeds are released to Plaintiff, the RUS shall pay to Defendants
4 \$10,558.58 of loan monies to satisfy this judgment. Nothing in this
5 Consent Order prevents Defendants from pursuing other enforcement
6 remedies to collect this judgment. A Satisfaction of Judgment shall be
7 entered when Plaintiff has fully paid the amount of the Judgment.

8 5. All parties shall be responsible for their own attorney's fees
9 and Court costs.

10 **IT IS SO ORDERED.** The District Court Executive is directed to enter
11 this Order and to provide copies to counsel.

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13 **DATED** this 6th day of December 2007.

14

15 S/ Edward F. Shea
16 EDWARD F. SHEA
17 United States District Judge

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